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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,801	06/10/2002	Jean-Paul Dumortier	324-142	2880
22429 7590 02/20/2008 LOWE HAUPTMAN HAM & BERNER, LLP 1700 DIAGONAL ROAD SUITE 300 ALEXANDRIA, VA 22314			EXAMINER BARON, HENRY	
			ART UNIT 2616	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/070,801	Applicant(s) DUMORTIER ET AL.	
	Examiner Henry Baron	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments/Remarks

1. Claims 1- 13 are pending in the application; Claims 4 has been cancelled; Claims 2, 3, and 13 have been amended.
2. Applicant's arguments filed 11/26/2007 have been fully considered but they are not fully persuasive.
3. Examiner has corrected inadvertent the '103(a) anticipation' typographical error.
4. Applicant argues in regards to claims 1, 7 – 10, 12, and 13, that Fraser, the prior art, does not teach the connection between customer C 403 (first terminal) and vendor V 405 (second terminal) is not set up at the beginning of the transaction and is not maintained throughout the transaction.
5. The Examiner disagrees citing Fraser (8: [0030]+) "[t]o begin a transaction, customer C 403 employs communications system 303 to call vendor 405" teaching of connection between customer C 403 (first terminal) and vendor V 405 (second terminal). Fraser does not teach of the connection dropped or altered during the transaction.
6. Applicant argues that there is no direct call from the customer to the vendor; instead the call by the vendor is from the customer to the transaction manager so the customer can indicate to the transaction manager that the customer wishes a connection with the vendor.
7. The Examiner disagrees reciting Fraser (8: [0030] +) above.
8. Applicant argues that paragraph 4 is inconsistent with paragraph 13 of the Office Action.
9. The Examiner is unable to discern the inconsistency. Paragraph 4 is directed to Fraser teaching of maintaining a connection between the first and second terminal. Paragraph 13 is directed to Fraser failure to disclose, during the call, setting up a link between the second terminal and a third terminal.

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10. Applicant argues the obviousness referred to in paragraphs 14 and 15 must be analyzed with respect to the problem Frazier seeks to solve which is to preserve the confidentiality of information between first terminal (customer) and third terminal (transaction manager).

11. In Fraser, the (transaction manager) third terminal is activated when the first terminal (customer) calls the second terminal (vendor), and third terminal (transaction manager) plays an active role in all of the transactions. In claim 1, the Applicant argues that third terminal (transaction manager) becomes active only after the first and third terminals agree on a transaction.

12. The Examiner argues that, given the available communication channels taught by Fraser, an embodiment would have been obvious at the time the invention was made to a person of ordinary skill in the art modifying the role of the active third terminal.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1, 7 - 10, and 12 -13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (U.S. Patent 5,329,589).

15. Regarding Claims 1, 9, and 10, Fraser discloses a method of validating an operation during a call set up between first terminal and second terminal via a digital telecommunication network, said call using a logical channel of a digital multiplex link including another logical channel to carry data (Figure 4), method comprising the following steps; during said call, setting up a link between said first terminal and a third terminal via said other logical channel of the digital multiplex link (column 8 lines 40-43), transferring between the first terminal and third terminal via said other logical channel, confidential data not accessible to said second terminal for validating said operation effected during said call between said

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first terminal and second terminal (column 8 lines 43-48), and sending an acknowledgement message confirming the validation of said operation from third terminal to the second terminal (column 8 lines 59-65).

16. However, Fraser fails to disclose during the call, setting up a link between second terminal and third terminal via network at the request of second terminal to request validation of said operation, then setting up a link between said first terminal and a third terminal via said other logical channel of the digital multiplex link. In Fraser, the (transaction manager) third terminal is activated when the first terminal (customer) calls the second terminal (vendor), and third terminal (transaction manager) plays an active role in all of the transactions.

17. However, it would have been obvious at the time the invention was made to a person having ordinary skill to modify Fraser so that initially, the call is set up solely between a first terminal (customer) calls the second terminal (vendor); then at the discretion of the second terminal (vendor) during the call, setting up a link between second terminal and third terminal via network at the request of second terminal to request validation of the operation.

18. The original Fraser configuration where the third terminal is connected throughout the transaction may be appropriate for a 'sure-sell' transaction e.g. hot-cakes, where the modified Fraser configuration would be appropriate for discretionary sales where the customer may or may not wish to complete the transaction.

19. With regards to claims 7, 12 and 13, modified Fraser allows setting up a virtual circuit on a signaling channel between the second terminal and first terminal after the second terminal has received acknowledgement message from the third terminal.

20. Claims 2 -3, 5 -6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser (US 5,329,589) in view of Gore et al. (US 5,313,463).

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21. With respect to claims 2 & 3, Fraser teaches all of the elements of Claim 1, but does not disclose the telecommunication network as an ISDN network.

22. Gore discloses an ISDN network used for communication between a business and a customer wherein the business and customer terminals communicate via a B channel and the D channel is used to validate customer information such as a credit card number by a third terminal (column 1 lines 46-68).

Fraser and Gore are analogous art because they are from the same field of endeavor of validating customer information by a third terminal in a telecommunication network.

23. It would have been obvious at the time of the invention to a person of ordinary skill in the art to modify the business transaction teachings of Fraser with use an ISDN network teachings of Gore, using the B channel for communication between the customer and vendor and the D channel for validating customer information with a third terminal.

24. Fraser and Gore are analogous art from the field of endeavor of validating customer information by a third terminal in a telecommunication network.

25. This modification of Fraser by Gore would better facilitate the transaction between the terminals by introducing a signaling channel that can be used to validate customer information instead of using another data channel or a private line facility (column 3 line 64 - column 4 line 42). Subsequently, the first terminal and third terminal transactions will be more secure.

26. With respect to claim 5, Gore discloses wherein said step of setting up said link between said second terminal and third terminal includes opening a virtual circuit on a signaling channel (column 1 lines 46-68).

27. With respect to claim 6, Gore discloses wherein said link between said second terminal and third terminal and said call between said first terminal and second terminal are multiplexed on the same physical medium serving second terminal from said network (ISDN D and B channels described in Figure 2 and column 3 line 64 - column 4 line 42).

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28. With respect to claim 8, Fraser discloses a communications system for validating an operation during a call set up between a first terminal and a second terminal via a digital telecommunication network (Figure 4 Elements 403 & 405), said call using a logical channel of a digital multiplex link including another logical channel to carry data comprising; another logical channel between a third terminal and said first terminal to exchange confidential data not accessible to said second terminal (column 8 lines 40- 43); and a link between said third terminal and said second terminal to send an acknowledgement message confirming validation of said operation (column 8 lines 59- 65).

29. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser et al. (US 5,329,589) in view of Linehan (US 6,327,578 B1).

30. Fraser discloses the elements of Claim 10 where the third terminal is a credit manager connected to a credit card database, but not to a bank.

31. Linehan discloses validating an operation between a Consumer (Figure 4 Element 202) and a Merchant (Figure 4 Element 204), by a third terminal, the Consumer's Issuing Bank and Issuer Gateway (Figure 4 Elements 212 & 214) which issues an authorization token, including a reference to the Consumer's credit or debit card number, to the Merchant (column 6 lines 8-43).

32. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the Issuer Gateway and Issuer Bank of Linehan in place of or in conjunction with the Credit Manager and Credit Card Database of Fraser.

33. This modification is advantageous because the Consumer/Customer has the option to use either a debit card or credit card.

FINAL ACTION

34. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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35. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry Baron whose telephone number is (571) 270-1748. The examiner can normally be reached on 7:30 AM to 5:00 PM E.S.T. Monday to Friday.

37. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

38. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AB
HB

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